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KAREN A. YARBROUGH  
COOK COUNTY RECORDER OF DEEDS  
DATE: 11/30/2018 10:52 AM PG: 1 OF 16

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Metra No. 10276-1

FIRST AMENDMENT TO PIPELINE EASEMENT AGREEMENT

between

COMMUTER RAIL DIVISION OF THE  
REGIONAL TRANSPORTATION  
AUTHORITY,

Grantor,

and

METROPOLITAN WATER  
RECLAMATION DISTRICT  
OF GREATER CHICAGO,  
a body corporate and politic,

Grantee.

Part of P.I.N.: 17-35-105-008-0000  
17-35-105-009-0000

This document consists of 16 pages, this page included, and bears the date of October 29, 2008.

This Instrument Prepared by Susan T. Morakalis, General Counsel

By: Christopher M. Murray  
Head Assistant Attorney  
100 East Erie Street  
Chicago, Illinois 60611

18-GM-031

EXEMPT FROM ILLINOIS TRANSFER TAX PURSUANT TO 35ILCS 200/31-45(b)

RETURN TO: RECORDERS BOX 369

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## 10276-1

### FIRST AMENDMENT TO PIPELINE EASEMENT AGREEMENT

**THIS FIRST AMENDMENT** shall amend and modify the Pipeline Easement Agreement, Metra No. 10276, entered into on October 29, 2008, ("**Easement Agreement**") by and between the Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation, ("**Metra**") and Metropolitan Water Reclamation District of Greater Chicago ("**Grantee**") for a non-exclusive easement, being Five (5) feet in width for pipeline purposes, along the right of way and tracks (or tracks, as case may be) of Metra located near 39<sup>th</sup> Street in Chicago. To the extent that a provision or provisions of the Agreement are in conflict with a provision or provisions of this Amendment, the provision or provisions of this Amendment shall take precedence and control.

**NOW, THEREFORE** Metra and Grantee agree to extend the term of the Agreement as follows:

1. Sections 1(a), (b), and (c) of the Agreement are hereby deleted and, pursuant to Commuter Rail Board Ordinance No. MET 13-12, which allows Metra to waive annual and lump-sum easement fees for municipal or government utility occupations, a new Section 1 is inserted as follows:

"1. The Easement as described above shall remain active in accordance with the terms and conditions of the Easement Agreement. However, beginning October 30, 2018, and continuing in effect as long as the Pipeline is maintained and used by the Grantee, Metra will no longer charge the Grantee an easement fee for its occupation or use. This Easement Agreement will stay in place and be effective as long as the Pipeline is maintained and used by the Grantee. Grantee agrees to notify Metra of plans to discontinue or change the Pipeline's use."

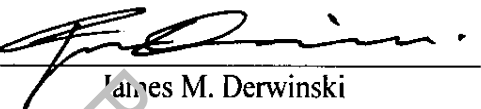
2. Capitalized terms, not otherwise defined herein, shall have the same meanings ascribed to them in the Agreement. The remaining terms, covenants, provisions and conditions of the Agreement shall remain in full force and effect.
3. If any provision in this Amendment is legitimately found to be void or unenforceable as written, then such provision shall be given force to the fullest possible extent that the same is legal, valid and enforceable and the remainder of this Amendment shall be construed as if such provision is not contained therein provided that the Amendment, in its entirety as so reconstituted, does not represent a material change to the rights or obligations of the parties.
4. The parties agree that the use of scanned and emailed signatures for the execution of this Amendment shall be legal and binding and shall have the same full force and effect as if originally signed.

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IN WITNESS WHEREOF, this instrument is executed and enforceable as of the later signature below.

**COMMUTER RAIL DIVISION OF THE  
REGIONAL TRANSPORTATION  
AUTHORITY:**

**METROPOLITAN WATER  
RECLAMATION DISTRICT OF  
GREATER CHICAGO:**

By: 

James M. Derwinski  
Executive Director/CEO

Date Signed: 12-12-18

By: 

Name: Frank Avila

Title: Chairman of Committee on Finance

Date Signed: 9-18-2018

By: 

Name: Jacqueline Torres

Title: Clerk/ Director of Finance

Date Signed: 9-18-2018

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THAT PART OF THE WEST ½ OF THE SOUTHWEST ¼ OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN MORE PARTICULARLY DESCRIBED AS FOLLOWS; THE RIGHT OF WAY OF THE COMMUTER RAIL DIVISION OF THE REGIONAL TRANSPORTATION AUTHORITY LOCATED EAST OF LOT 8 IN CLEAVERVILLE A SUBDIVISION OF THE NORTH 70.20 ACRES OF FRACTIONAL SECTION 2-13-14, ALSO 20 ACRES OF THE SOUTHEAST PART OF FRACTIONAL SECTION 35-39-14, AND LOT 72 IN ELLIS' EAST ADDITION TO CHICAGO RECORDED OCTOBER 14, 1858, IN COOK COUNTY, ILLINOIS.

PINS 17-35-105-008-0000 & 17-35-105-009-0000

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0833745018

## EASEMENT GRANT

Doc#: 0833745018 Fee: \$98.00  
Eugene "Gene" Moore  
Cook County Recorder of Deeds  
Date: 12/02/2008 09:06 AM Pg: 1 of 12

between

THE COMMUTER RAIL DIVISION OF THE REGIONAL  
TRANSPORTATION AUTHORITY, a division of an  
ILLINOIS MUNICIPAL CORPORATION ("METRA")

Grantor,

and

METROPOLITAN WATER RECLAMATION  
DISTRICT OF GREATER CHICAGO,  
a municipal corporation,

Grantee,

with respect to a 48-inch pipeline within a  
five foot non-exclusive easement on real  
estate located along the right of way and  
tracks of Metra located near 39<sup>th</sup> Street in  
Chicago, Illinois.

Said pipeline Easement is depicted as  
Exhibit A, attached hereto and made a  
part hereof. This document consists of  
12 pages, this page included, and bears  
the date of October 29, 2008.

This document has been prepared by Frederick M. Feldman, Attorney

By: Susan T. Morakalis (Bernice Brown)  
Principal Assistant Attorney  
100 East Erie Street  
Chicago, Illinois 60611  
Telephone No: (312) 751-6557

EXEMPT FROM ILLINOIS TRANSFER TAX PURSUANT TO 35ILCS 200/31-45(b)

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*RECORDED*

*dm*

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10276

## PIPELINE EASEMENT AGREEMENT

The Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation ("Metra"), whose address is 547 West Jackson Boulevard, Chicago, Illinois 60661, hereby grants to the Metropolitan Water Reclamation District of Greater Chicago, With offices located at 100 East Erie Street ("Grantee"), a non-exclusive easement, being Five (5) feet in width for pipeline purposes ("Easement") and no other purpose, along the right of way and tracks (or track, as the case may be) of Metra located near 39<sup>th</sup> Street in Chicago, Illinois depicted on the plat attached to and made a part of this Easement as Exhibit "A" ("Premises") together with the right of reasonable access thereto for the purpose of exercising the rights and privileges granted in this Easement. Metra and Grantee are hereinafter sometimes individually referred to as a "Party" and collectively referred to as the "Parties".

That for and in consideration of payments to be made to Metra by Grantee, as hereinafter set forth, and also of the covenants and agreements hereinafter stated, Metra hereby grants to Grantee the right to install a Forty Eight (48) inch pipeline, for the purpose of transporting sewage ("Pipeline") and thereafter to maintain, operate and renew the same during the continuance of this Easement, across, underneath or along the Premises.

This Easement is granted upon the following express conditions, terms and covenants to be observed, kept and performed by Grantee:

1. (a) The term of this Easement shall be ten (10) years commence on the execution date hereof ("Use Term") and may be extended pursuant to the schedule in Section 1(b).

(b) Grantee shall pay to Metra as fair and reasonable compensation for the Use Term a one time Easement fee ("Easement Fee") of Fifty Thousand Dollars (\$50,000). Fees for extensions to the Use Term shall be based on the following yearly rate schedule payable on or before the respective anniversary dates of this Agreement:

- Year 11.....\$7,500
- Year 12.....(year 11 rate)+ 3% increase
- Year 13.....(year 12 rate)+ 3% increase
- Year 14.....(year 13 rate)+ 3% increase
- Year 15.....(year 14 rate) + maximum of 20% increase

(c) Metra's right to adjust the Easement Fee in accordance with the terms of this Agreement shall not be invalidated or waived, or deemed to be invalidated or waived, by reason of Metra's delay in issuing an adjusted Easement Fee bill to Grantee and Metra's failure to send Grantee an adjusted Easement Fee bill shall be without prejudice to the right of Metra to send an adjusted Easement Fee bill to Grantee in subsequent years.

2. Said Pipeline shall be installed and constructed in accordance with the

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specifications and notes set forth on Exhibit "A". The installation of said Pipeline, including the digging and filling of any trench and the time and manner of doing all of the work or of any maintenance, repairs, replacements or renewals upon the Premises, shall be as directed by Metra's authorized representatives. All of said work shall be done at Grantee's sole cost and expense, in a good and workmanlike manner, and in accordance with plans, specifications, and profiles to be prepared by Grantee and submitted for approval to Metra's authorized representatives, and until such approval is given, said work upon the Premises shall not be commenced by Grantee. Metra acknowledges that Grantee's work will be performed by Grantee's contractor and agrees to review such plans and specifications in a reasonable and timely manner.

3. Upon completion of the initial installation and construction of the Pipeline, and upon completion of any subsequent installation, reconstruction, maintenance, repair or replacement of the Pipeline, Grantee, at its own cost and expense, shall remove any debris and restore, or cause to be restored to the reasonable satisfaction of Metra, the Premises and any other affected portion of Metra's property ("Property") as nearly as may be, to the same or better condition than that which existed immediately prior to commencement of such activities by Grantee. In the event Grantee fails to cause the Premises and the Property to be restored to the reasonable satisfaction of Metra as provided for herein, Metra shall notify Grantee of such deficiencies and provide Grantee thirty (30) days to restore the Premises and Property after such time, than Metra shall have the right to restore the Premises and the Property and Grantee shall reimburse Metra for all costs and expenses incurred by Metra in its performance of the obligations imposed upon Grantee hereunder.

4. Metra shall permit Grantee reasonable right of entry to the Premises for the purpose of installing, constructing, replacing, repairing, maintaining and operating said Pipeline. Metra may, however, restrict the location of entry points or access on or over the Premises.

5. Any rights to the Premises not specifically granted to Grantee herein are reserved to Metra and its successors and/or assigns. The Pipeline shall be installed, constructed, repaired, maintained and operated in a manner so as not to interfere with efficient rail operations or any other business operations or activities being conducted by Metra or Metra's tenants or permittees on the Premises and so as not to prevent or unreasonably interfere with use and enjoyment of the Premises by Metra, its employees, agents or permittees for the purpose(s) to which the Premises is now, or may hereafter be committed by Metra. Metra shall have the right to retain the existing tracks and other improvements at the location of this Pipeline on or adjacent to the Premises and also shall have the right at any and all times in the future to construct, maintain and operate over, under, across or parallel to said Pipeline such additional track or tracks as it may from time to time elect. Nothing shall be done or caused to be done by Grantee that will in any manner impair the usefulness or safety of the tracks and other improvements of Metra, or such track or tracks and other improvements as Metra may in the future construct or cause to be constructed over, under, across, or parallel to said Pipeline. This Easement is expressly subject to the rights of third parties to maintain utility and other improvements permitted by Metra on the Premises and the Property. Metra reserves the exclusive right to grant future easements and licenses over, under, across or parallel to the said Pipeline, provided such easements and licenses do not

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interfere with the Pipeline and the rights granted Grantee pursuant to this Agreement, as determined by Metra in its sole discretion.

6. Grantee agrees that it will bear and pay the entire cost of constructing, maintaining, repairing, replacing and operating said Pipeline. Grantee shall install, construct, maintain, repair, replace, and operate the Pipeline in accordance with all applicable federal, state and local municipal laws, ordinances, rules and regulations promulgated by governmental authorities. Grantee shall not commence work upon the Premises until Metra shall have approved Grantee's plans, specifications and profiles, such approval not to be unreasonably withheld or delayed. Metra's approval of Grantee's plans, specifications and profiles, shall not relieve Grantee of the duty to verify that the plans, specifications and profiles, and all amendments thereto, are in compliance with the requirements of this paragraph.

7. Grantee shall give to Metra reasonable advance written notice of the time when Grantee will commence any construction, replacement, repair or maintenance of said Pipeline in order that Metra may, if it so desires, have its representative(s) present for the purpose of directing said work so that the same may be done in a manner satisfactory to Metra. Metra in no way waives any rights by failing to have said representative present.

8. Grantee shall not place, keep, store or otherwise permit to be placed, kept or stored on the Premises or the Property any equipment or materials except during such time as Grantee's employees, agents or contractors are physically present and conducting activities permitted under the terms of this Easement. Grantee agrees that it shall not operate or cause to be operated any vehicle of any kind on the Premises or any track or on the Property without prior authorization from Metra's authorized representative, provided, however, that Grantee shall not be prohibited from operating Grantee's vehicles and equipment on any public crossing of Metra's tracks and rights of way. To the extent that in the reasonable opinion of Metra or its designee, flagging and supervisory services are deemed necessary by reason of the installation, construction, repair, renewal, alteration or removal of said Pipeline, Grantee shall, upon receipt of a bill or invoice therefore, reimburse Metra or its designee for the reasonable cost and expense of furnishing such flagging and supervisory services.

9. Grantee agrees that before and during the installation, construction, replacement, repair, maintenance, or operation of said Pipeline, or at any other time, Metra shall have the right to provide such safe and temporary structures as it may deem necessary for safely caring for and preserving its tracks, buildings or other improvements and Grantee agrees to pay to Metra the entire cost of putting in or removing such temporary structures and of restoring the Premises and the Property as near as may be to the same condition that existed before the commencement of said work.

10. Grantee agrees that it will, immediately upon receipt of a statement showing the amount thereof, pay all costs of any and all work performed upon the right of way and tracks of Metra which shall be made necessary by the construction, maintenance, repair, replacement, renewal or presence thereon of said Pipeline.



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11. Grantee agrees that should the construction, maintenance, operation, repair or presence of the Pipeline necessitate any change or alteration in the location or arrangement of any other pipelines, appurtenances or other improvements located on the Premises or the Property, the cost of such change or alteration shall be paid by Grantee within thirty (30) days of presentation of a bill by Metra. Grantee further agrees that if, at any time, Metra shall desire to change the location or grade of its track or tracks or shall desire to use or allow third party railroads to use its right of way at said point of crossing or at any point along a parallel course with the Pipeline for any purpose whatsoever, including but not limited to track installations by Metra or third parties, Grantee, at its own cost and expense, shall alter, relocate or make all changes to the Pipeline required by Metra. If Grantee shall fail, neglect or refuse to relocate or make such change(s) to the Pipeline for a period of ninety (90) days after the receipt of written notice from Metra, then Metra may make or cause to be made such relocation or change(s) at the expense of Grantee.

12. Grantee shall at all times install, construct, replace, repair, maintain and operate said Pipeline in a secure, safe and sanitary condition and in accordance with all applicable laws, ordinances, rules and regulations. Grantee shall take all reasonable safety precautions to adequately secure the Premises, warn of risks and ensure the safety of the public during periods of construction, reconstruction, replacement, repair, maintenance and operation of the Pipeline. If the manner of installing, constructing, repairing, maintaining, replacing or operating said Pipeline shall at any time be in violation of any applicable law, ordinance, rule, or regulation promulgated by governmental authority, then Grantee shall, at no cost or expense to Metra, upon receipt of appropriate notice from a governmental agency having enforcement jurisdiction over the Premises, make such changes or repairs as shall be necessary. Failure or refusal of Grantee to make the required changes or repairs within the time prescribed by said agency shall terminate this Agreement, and Grantee's rights and interest shall revert to Metra; provided, however, that this Agreement shall not terminate as long as Grantee, in good faith and by pursuit of appropriate legal or equitable remedies, enjoins, defends against, appeals from or pursues other lawful measures to avoid the enforcement of said laws, ordinances, rules or regulations or so long as Grantee is diligently pursuing compliance.

13. To the fullest extent permitted by law, the Grantee hereby assumes and agrees to release, acquit and waive any rights which Grantee may have against and forever discharge Metra, the RTA and the NIRCRC, their respective directors, administrators, officers, employees, agents, successors, assigns and all other persons, firms and corporations acting on their behalf or with their authority, from and against any and all claims, demands or liabilities imposed upon them by law or otherwise of every kind, nature and character on account of personal injuries, including death at any time resulting therefrom, and on account of damage to or destruction of property arising out of or in any way relating to or occurring in connection with the use of the Premises or the Property for the purposes set forth in this Agreement or which may occur to or be incurred by the Grantee, its employees, officers, agents and all other persons acting on the Grantee behalf while on the Premises or the Property, or arising from the condition of the Premises or the Property during the term of this Agreement, to the extent such injuries or damages are caused by the sole negligence or willful misconduct of Metra, the RTA, or the

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NIRCRC. Notwithstanding anything in this Agreement to the contrary, the releases and waivers contained in this paragraph shall survive termination of this Agreement.

14. To the fullest extent permitted by law, the Grantee agrees to indemnify, defend and hold harmless Metra, the RTA and the NIRCRC, their respective directors, administrators, officers, agents, employees, successors, assigns and all other persons, firms and corporations acting on their behalf or with their authority, from and against any and all injuries, liabilities, losses, damages, costs, payments and expenses of every kind and nature (including, without limitation, court costs and attorneys' fees) for claims, demands, actions, suits, proceedings, judgments, settlements arising out of or in any way relating to or occurring in connection with the use of the Premises or the Property for the purposes set forth in this Agreement, the failure to investigate claims, or which may occur to or be incurred, by the Grantee, its employees, officers, agents, and all other persons acting on its behalf while on the Premises or the Property, or, the condition of the Premises or the Property to the extent such injuries, liabilities, losses, damages, costs, payments or expenses are caused by the sole negligence or willful misconduct of Metra, the RTA or the NIRCRC. Metra agrees to notify the Grantee in writing within a reasonable time of any claim of which it becomes aware which may fall within this indemnity provision. The Grantee further agrees to defend Metra, the RTA, the NIRCRC, their respective directors, administrators, officers, agents and employees against any claims, suits, actions or proceedings filed against any of them with respect to the subject matter of this indemnity provision provided, however, that Metra, the RTA and the NIRCRC, may elect to participate in the defense thereof at their own expense or may, at their own expense, employ attorneys of their own selection to appear and defend the same on behalf of Metra, the RTA, the NIRCRC, and their respective directors, administrators, officers, agents or employees. The Grantee shall not enter into any compromise or settlement of any such claims, suits, actions or proceedings that name Metra, RTA or NIRCRC as a defendant without the consent of Metra, the RTA and the NIRCRC, which consent shall not be unreasonably withheld. Notwithstanding anything to the contrary contained in this Agreement, the indemnities contained in this paragraph shall survive termination of this Agreement and the indemnification and hold harmless provisions set forth in this Agreement shall not be construed as an indemnification or hold harmless against and from the negligence or willful misconduct of Metra, the RTA or the NIRCRC with respect to any construction work performed by the Grantee or those performing on behalf of or with the Grantee in violation of the Illinois Construction Contract Indemnification for Negligence Act.

15. Prior to entering upon the Premises, Grantee agrees to furnish or cause to be furnished self-insurance or conventional insurance in form and in such amounts as required and shall deliver to Metra's Risk Management Department certificates of insurance or such other documentation acceptable to Metra's Risk Management Department evidencing the acquisition of the required insurance to construct, install, use, maintain, repair, replace, operate and renew the Pipeline in accordance with the terms of this Easement. Said certificates of insurance and subsequent renewals, shall reference the Metra Agreement number stamped on the front of the Agreement.

To the fullest extent permitted by law, during all periods that Grantee or those persons authorized by or acting on behalf of Grantee are on the Premises to perform or cause to

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be performed any installation, construction, maintenance, or repair with respect to the Pipeline, Grantee shall cause each of Metra, the NIRCRC and the RTA to be designated as additional insureds on all insurance policies relating to the Premises and shall provide proof thereof to Metra prior to entering upon the Premises. At a minimum, Grantee or its contractor(s) shall obtain and keep in force the following insurance relating to the Premises:

- a. Worker's Compensation (Coverage A) in an amount no less than required under State law. Additionally, Employer's Liability (Coverage B) in an amount no less than Five Hundred Thousand Dollars (\$500,000.00);
- b. Comprehensive Automotive Liability Insurance with coverage of no less than Two Million Five Hundred Thousand Dollars (\$2,500,000) combined single limit;
- c. Commercial General Liability with coverage of no less than Two Million Five Hundred Thousand Dollars (\$2,500,000) per occurrence; and
- d. Railroad Protective Public Liability Insurance (AAR-AASHTO form) in the name of Metra, the RTA, the NIRCRC, (additional railroad(s) at Metra's discretion), providing for a limit of no less than Two Million Dollars (\$2,000,000.00) single limit, bodily injury and/or property damage combined, for damages arising out of bodily injuries to or death of any person in any one occurrence and for damage to or destruction of property, including the loss of use thereof, in any one occurrence. Grantee will furnish such insurance with an aggregate of no less than Six Million Dollars (\$6,000,000.00) for all damages as a result of more than one occurrence.

Grantee or its contractor(s) shall not commence any work until it has obtained and provided the required insurance and has received approval of same by Metra. All policies must be in full force at the time of submission and shall not be canceled, modified, limited or allowed to expire without having given Metra thirty (30) days prior written notice of such. Notice must be sent via certified mail to: Metra (312) 322-6991, Attention: Director, Risk Management, 15th Floor, 547 West Jackson Boulevard, Chicago, Illinois 60661.

Grantee's failure to obtain or to cause its contractors to obtain proper insurance coverage or to insure Metra, the NIRCRC or the RTA as additional insureds shall not, at any time, operate as a waiver of each Grantor's right to indemnification and defense against any claims, damages or injuries covered under the terms and provisions of this Agreement. During the term, Metra may make commercially reasonable increases in the amount of insurance required by Grantee or its contractor(s) and/or sub-contractor(s) under the terms and provisions of this Agreement.

16. This Easement may be terminated by Metra effective one hundred and twenty (120) days after giving notice to Grantee if the Premises, or any portion thereof, is needed for any Metra or railroad purposes as determined by Metra in its sole discretion or immediately upon notice to Grantee if Grantee ceases to operate or maintain the Pipeline or violates any of the terms, conditions or provisions set forth in this Easement. In case of termination for any reason or upon expiration of the Use Term of this Agreement, including any mutually agreed to

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extensions thereof, Grantee shall remove from the Premises said Pipeline and shall restore said Premises to the same or better condition than that which existed prior to the construction and installation of said Pipeline; or upon failure, neglect or refusal of Grantee to do so, Metra may make or cause to be made such removal and restoration, and the total cost hereof shall be paid by Grantee; or, if Metra shall so elect, it may treat the said Pipeline as abandoned by Grantee and may make such disposition thereof as it may see fit. All rights and interest in and to said Premises shall revert to Metra if Grantee vacates, abandons or ceases to use the Premises for a period of twelve (12) consecutive months. In such event, Grantee shall, upon Metra's request, execute appropriate documents releasing Grantee's interests.

17. This Easement and all of the terms, conditions, rights and obligations herein contained shall be to and be binding upon the Parties, their respective legal representatives, lessees, permittees, successors and/or assigns whether hereinabove so stated or not; but it is distinctly agreed that Grantee shall not assign its rights under this Easement without first having received the prior written consent of Metra. It is Grantee's responsibility to give Metra notice of any change in the identity of the Grantee. In the event Grantee fails to obtain the required consent to assign its rights or fails to notify Metra of a change in the Grantee under this Agreement, Metra may terminate this Agreement or, alternatively, charge Grantee a fee of Fifty Dollars (\$50) per day from the date of the actual assignment or change in Grantee until the date Grantee furnishes to Metra the request for consent to the assignment or notice of the change in Grantee.

18. All payments required to be made by Grantee to Metra under the terms, conditions or provisions of this Easement shall be made within sixty (60) days of Grantee's receipt of any demand or invoice from Metra evidencing the amount of the indebtedness due. Payments not made within said sixty (60) day period shall accrue interest at a rate of one and one half percent (1 ½%) per month or the highest amount permitted by Illinois law, whichever is less, from the date payment is due until paid.

19. All notices, demands and elections required or permitted to be given or made by either Party upon the other under the terms of this Easement or any statute shall be in writing. Such communications shall be deemed to have been sufficiently served if sent by certified or registered mail, return receipt requested, with proper postage prepaid, facsimile transmission or hand delivered to the respective addresses shown below or to such other party or address as either Party may from time to time furnish to the other in writing. Such notices, demands, elections and other instruments shall be considered delivered to recipient on the second business day after deposit in the U.S. Mail, on the day of successful transmission if sent by facsimile transmission, or on the day of delivery if hand delivered.

(a) Notices to Metra shall be sent to:

Commuter Rail Division  
547 W. Jackson Boulevard  
Chicago, Illinois 60661  
Attn: Law Department, General Counsel

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Phone: (312) 322-6699

Fax: (312) 322-6698

- (b) Notices to Grantee shall be sent to:

Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street

Chicago, IL 6061-3154

Attn: Chief Engineer

Phone: (312) 751-7905

Fax: (312) 751-5681

20. This Agreement shall be governed by the laws of the State of Illinois. If any provision of this Agreement, or any paragraph, sentence, clause, phrase or word or the application thereof is held invalid, the remainder of this Agreement shall be construed as if such invalid part were never included and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law provided that the Agreement, in its entirety as so reconstituted, does not represent a material change to the rights or obligations of either of the Parties. No waiver of any obligation or default of Grantee shall be implied from omission by Metra to take any action on account of such obligation or default and no express waiver shall affect any obligation or default other than the obligation or default specified in the express waiver and then only for the time and to the extent therein stated. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable. In the event the time for performance hereunder falls on a Saturday, Sunday or holiday, the actual time for performance shall be the next business day. This Easement constitutes the entire agreement between the Parties with respect to the subject matter hereof.

GRANTEE ACKNOWLEDGES THAT INSTRUMENTS OF RECORD, COURT DECISIONS, OR THE LAWS OF THE STATE IN WHICH THE EASEMENT PREMISES ARE LOCATED MAY LIMIT THE QUALITY OF METRA'S TITLE. GRANTEE FURTHER ACKNOWLEDGES THAT GRANTEE PURCHASES THE EASEMENT SUBJECT TO THESE POSSIBLE LIMITATIONS ON THE TITLE AND ASSUMES ALL RESPONSIBILITY FOR INVESTIGATING THE TITLE TO THE EASEMENT PREMISES AND THE APPLICABLE LAWS OF THE STATE.

(Signature Page to Follow)

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IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of this 29<sup>th</sup> day of October, 2008.

ATTEST:

COMMUTER RAIL DIVISION OF THE  
REGIONAL TRANSPORTATION  
AUTHORITY

By: [Signature]  
Assistant Secretary

By: [Signature]  
Philip A. Romano  
Executive Director

ATTEST:

METROPOLITAN WATER  
RECLAMATION DISTRICT  
OF GREATER CHICAGO

By: [Signature]  
Jacqueline Torres  
Director of Finance/Clerk


By: [Signature]  
Gloria Majewski  
Chairman, Committee on Finance of  
its Board of Commissioners

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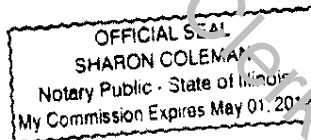
STATE OF ILLINOIS     )  
  ) SS.  
COUNTY OF COOK        )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Philip A. Pagano, personally known to me to be the Executive Director of the Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation, and Delores M. Ellison, personally known to me to be the Assistant Secretary of said Corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as Executive Director and Assistant Secretary of said Corporation, they signed and delivered the said instrument in their official capacities pursuant to authority given by the Board of Directors of said Corporation and as the free and voluntary act and deed of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 29<sup>th</sup> day of October, 2008

  
\_\_\_\_\_  
Notary Public

(SEE A)



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METRA NOTES - IMPORTANT !!!

GENERAL NOTES

None of the contractor's men or equipment may work upon Metra's property without a qualified railroad flagman (employees in charge) present. Contractor may work only when authorized to do so by the flagman (employees in charge).

Metra has a very limited number of flagmen. If Metra can not furnish a flagman for a particular date, contractor will not be allowed to work on Metra's property.

Copy of this drawing must be kept on the job site during all phases of construction.

Contractor must contact Electric District Power Supervisor, at (312) 322-2465 at least 72 hours prior to work start up to arrange for flagging protection etc.

Contractor must have railroad engineering department representative inspect work to determine if slow order protection required and how long slow order will be in effect.

Metra Signal and Communications Departments must locate any buried cables and/or equipment before digging may begin on railroad property, and must provide protection for any such facilities during the actual construction.

Utilities/Facilities

Extreme care must be exercised when working under or in proximity of Metra's signal and communication pole lines and wires. Poles must be specially braced if necessary.

The pipeline shall be braced and jacked into place. When jacking operation is started, proper protection must be provided to protect any danger of cave-ins. If necessary, due to soil and water conditions encountered, jacking operation must be discontinued to ensure safety of railroad tracks.

Any project requiring jacking pits, excavations and/or shoring must have the pit diagrams, shoring details and locations approved by Metra's Construction Department prior to the beginning of construction on railroad property.

All existing drainage and associated structures must be preserved or accommodated by the scope of the project's work.

No drainage condition shall be created or allowed to exist that is, or may be, adverse to Metra.

Spots between center and casing pipes shall be blown full of dry sand and ends of casing pipes sealed.

Contractor is responsible for a one year extraordinary track maintenance period. This is to cover unreimbursable railroad costs for materials, starting and alignment that may become necessary as a result of settlement of track.

Underground installation(s) shall be permanently marked where they enter and leave the railroad right of way.

Minimum wall thickness shown on for pipe and conduits with protective coating and cathodic protection. Without the protection, wall thickness must be increased by 0.003 inches.



ENGINEERING DEPARTMENT  
CHICAGO, ILLINOIS

EXHIBIT "A"

CHICAGO, IL  
39TH STREET (MP 4.55)  
MWRD TEMPORARY  
BYPASS PIPELINE

CAD FILE: 07193-mwrdbypass.dwg

SCALE: AS NOTED

DATE: 09/05/08

CONTRACTOR SAFETY NOTES

Contractors to a railroad are governed by the provision of a Federal Regulation identified in Title 49, Part 214 (Railroad Worker Safety and Railroad Workplace Safety Standards).

SAFETY INSTRUCTIONS

Safety of Railroad Workers (including contractors) is of paramount importance in the planning, design, or work being performed for the railroad. No work will be performed when there is the potential of losing a track (i.e. when an individual or equipment is in a track, or near a track, or when to be struck by a moving train) until the following terms have been completed:

1. A qualified railroad flagman (employee in charge) is present to provide necessary protection or authority.
2. Work (design, inspection, testing, construction maintenance, or repair to a railroad facility) will begin only if the railroad's employee in charge has conducted a mandatory job briefing consisting of the following:
  - Name of flagman (employee in charge)
  - Name of lookout (if applicable)
  - Type / track authority (explain)
  - Time limits
  - Protection if any, on adjacent tracks
  - Methods of notification for the approach of trains
  - Location to clear for trains
  - Protection for other on-track safety on other tracks, if necessary
  - Required removal protective equipment

Failure to comply with the provision established herein will result in the contractor and/or employee(s) being held liable and/or subject to personnel fines as levied by the Federal Railroad Administration.

Follow-up job briefing will be conducted when:

- The working conditions or procedures change
- Other workers enter the working limits or
- Track authority is changed, extended, or about to be released.

If any of the above situations occur, work will cease until the follow-up job briefing is conducted.

Contractors have the following responsibilities:

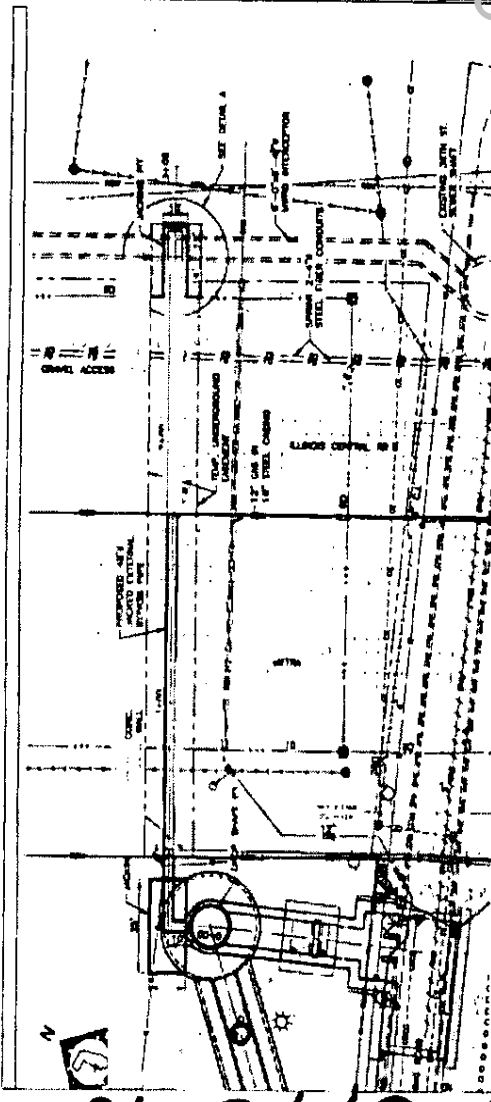
- Work wear approved by Metra including:
  - Highly visible orange vest
  - Steel toed safety shoes
  - ANSI approved hard hat (29.1 standards)
  - ANSI eye safety glasses or safety glasses
  - Hearing protection (when required)
  - Respirator protection (when required)
  - Fall protection (when required) as specified in FRA Regulations 49 CFR, 192.101 - Railroad Workplace Safety Standards.

Heavy equipment shall be equipped with audible back up warning devices.

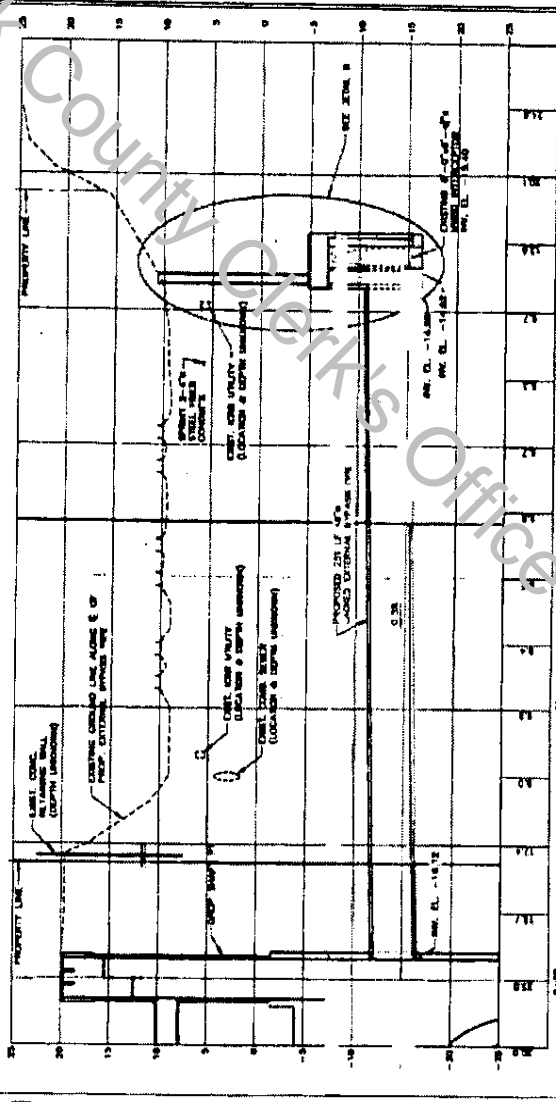
Contractors will keep the job site free from safety and health hazards.

Contractors will post MSDS sheets in the construction trailer.

Contractors will post these instructions in a conspicuous place in the construction trailer.



PLAN



PROFILE

0833745018

DOCUMENT WITH THIS EXHIBIT